

CHAPTER 7

RULES OF PROBATE PROCEDURE

Rule 7.6 Reports of delinquent inventories or reports.

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7.6(4) The Iowa Supreme Court Attorney Disciplinary Board, as a commission of the supreme court pursuant to Iowa Ct. R. 35.2, shall communicate with each attorney licensed to practice law in Iowa whose name appears on the list transmitted to the board pursuant to rule 7.6(3). If the board determines there is reasonable cause to believe an attorney for a fiduciary has violated Iowa R. of Prof'l Conduct 32:1.3 or 32:3.2 for failure to file a required inventory or report within 60 days after receiving notice of delinquency, or within an extension of time for a specified period granted by order, the board shall initiate appropriate disciplinary action. The board chairperson shall include the number of attorneys investigated and complaints initiated and processed pursuant to this rule, a synopsis of each such complaint, and the disposition thereof, in the annual board report to the supreme court required by Iowa Ct. R. 35.25 ~~35.23~~.

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CHAPTER 31

ADMISSION TO THE BAR

Rule 31.1 Board of law examiners.

31.1(1) *Composition.*

a. The board of law examiners shall consist of five persons admitted to practice law in this state and two persons not admitted to practice law in this state. Members shall be appointed by the supreme court. A member admitted to practice law shall be actively engaged in the practice of law in this state.

b. Appointment shall be for three-year terms and shall commence on July 1 of the year in which the appointment is made. Vacancies shall be filled for the unexpired term by appointment of the supreme court. Members shall serve no more than three terms or nine years, whichever is less.

c. The members thus appointed shall sign a written oath to faithfully and impartially discharge the duties of the office and shall file the oath in the office of professional regulation. They shall be compensated for their services in accordance with the provisions of Iowa Code section 602.10106.

d. The supreme court may appoint temporary examiners to assist the board, who shall receive their actual and necessary expenses to be paid from funds appropriated to the board.

e. The members of the board of law examiners and the temporary examiners shall be paid a per diem in an amount to be set by the supreme court for each day spent in conducting the examinations of the applicants for admission to the bar and in performing and conducting administrative duties and shall also be reimbursed for additional expenses¹ necessarily incurred in the performance of such duties.

f. The assistant director for admissions of the office of professional regulation shall serve as the principal administrator for the board of law examiners. Wherever in this chapter a reference to the "assistant director" appears, it shall refer to the assistant director for admissions of the office of professional regulation.

g. The board shall have an administrative committee consisting of the chair, the director of the office of professional regulation and a nonlawyer member of the board appointed by the court. The administrative committee shall, at least 60 days prior to the start of each fiscal year, submit to the court for consideration and approval a budget covering the board's operations for the upcoming fiscal year. Approval of the budget by the court shall authorize payment as provided in the budget. A separate bank account designated as the admissions operating account shall be maintained for payment of authorized expenditures as provided in the approved budget. Fees or other funds received or collected as directed in this chapter or in accordance with an approved interagency agreement shall be deposited in the admissions operating account for payment of the board's authorized expenditures.

h. Claims against members of the board and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa State Tort Claims Act set forth in Iowa Code chapter 669.

i. The board of law examiners and its members, employees, and agents, temporary law examiners, and the director, assistant directors, and the staff of the office of professional regulation are immune from all civil liability for damages for conduct, communications, or omissions occurring in the performance of and within the scope of their official duties relating to the examination, character and fitness qualification, and licensing of persons seeking to be admitted to the practice of law.

j. Records, statements of opinion, and other information regarding an applicant for admission to the bar communicated by any entity, including any person, firm, or institution, without malice, to the Board of Law Examiners, its members, employees, or agents, or to the director, assistant director, and the staff of the office of professional regulation are privileged, and civil suits for damages predicated thereon may not be instituted.

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Rule 31.9. Moral character and fitness

31.9(1) The Iowa board of law examiners shall make an investigation of the moral character and fitness of any applicant and may procure the services of any bar association, agency, organization, or individual qualified to make a moral character or fitness report.

Immediately upon the filing of the application, the chairperson of the Iowa board of law examiners shall notify the president of a local bar association and the county attorney of the county in which the applicant resides of the filing of the application. If either of said officers is possessed of information which reflects adversely on the moral character or fitness of the applicant, such information shall be transmitted to the chairperson of the board of law examiners not less than 60 days in advance of the holding of the examination.

The Iowa board of law examiners shall, subject to review by the supreme court, determine whether or not the applicant is of good moral character and fitness.

31.9(2) Denial of permission to take bar exam; denial of recommendation for admission. When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board shall notify the applicant in writing of its determination.

a. The notice shall provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the assistant director within ten days after service of the notice.

b. The assistant director shall serve the notice on the applicant by mail to the address shown on the person's application.

c. If no request for hearing is filed, the board's determination shall be final and not subject to review.

d. If a request for hearing is filed, the chair of the board shall appoint a lawyer member of the board to act as a hearing officer. The hearing officer shall promptly set a hearing, and the assistant director shall notify the applicant by mail at least ten days before the hearing date of the time and place of hearing.

e. Not less than ten days before the hearing date the board shall furnish the applicant with copies of all documents and summaries of all other information the board relied on in making its determination.

f. The clerk of court in the county where the hearing is held shall have authority to issue any necessary subpoenas for the hearing.

g. At the hearing the applicant shall have the right to appear in person and by counsel. The board may be represented by the attorney general of the State of Iowa or a duly appointed assistant attorney general. The hearing shall be reported. The hearing officer shall take judicial notice of the information the board considered in the case and shall consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board shall first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant shall present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing, the hearing officer shall have the power and authority administrative hearing officers possess generally.

h. Within 30 days after completion of the hearing, the hearing officer shall provide the board with a hearing transcript, exhibits, and findings of fact and conclusions of law. Based on this information, the board shall prepare and file its final determination with the assistant director. The assistant director shall, by mail, promptly notify the applicant of the board's final determination.

31.9(3) Review by supreme court. Any applicant aggrieved by a final determination of the board made pursuant to rule 31.9(2) may file a petition requesting review of the determination in the supreme court of Iowa within 20 days of the mailing of notice of final determination. The petition must be accompanied by a \$150 fee. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. A petition for review shall state all claims of error and reasons for challenging the board's determination. The board shall transmit to the supreme court its files and

complete record in the case. Unless the court orders otherwise, the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive. No subsequent application for admission by a person denied under rule 31.9(2) shall be considered by the board unless authorized by the court upon the person's motion accompanied by a prima facie showing of a substantial change of circumstances.

31.9(4) *Costs of review.* In the event an applicant or person who is registered petitions for review under rule 31.9(3) and is unsuccessful, the costs of the appeal shall be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.

31.9(25) *Failure to comply with support order.* The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who fails to comply with a support order.

a. Procedure. The child support recovery unit (the unit) shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.20(1) ~~35.19(1)~~, except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.20(2) ~~35.19(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify applicants subject to enforcement under Iowa Code chapter 252J or 598.

31. 9(36) The Iowa supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who

defaults on an obligation owed to or collected by the College Student Aid Commission.

a. Procedure. The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.21(1), ~~35.20(1)~~, except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.21(2) ~~35.20(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the court.

31.9(47) The supreme court may refuse to issue a license to practice law to an applicant for admission to the bar by examination or on motion who defaults on an obligation owed to or collected by the centralized collection unit of the department of revenue (the unit).

a. Procedure. The unit shall file any certificate of noncompliance which involves an applicant with the clerk of the supreme court. The procedure, including notice to the applicant, shall be governed by Iowa Ct. R. 35.22(1) ~~35.21(1)~~, except that the notice shall refer to a refusal to issue a license to practice law to the applicant instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing from the applicant, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by Iowa Ct. R. 35.22(2) ~~35.21(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance, or, if necessary, shall immediately take such steps as are necessary to issue a license to the applicant if the applicant is otherwise eligible under rules of the supreme court.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court

and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify applicants subject to enforcement under Iowa Code chapter 272D.

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Rule 31.11 Automatic review. ~~Appeal and review.~~

31.11(1) ~~One failed bar exam.~~Score range for review. An applicant whose combined, scaled score on the current examination is at least 260, but less than 266, shall have an automatic review of the written portion of the bar examination prior to release of the bar examination results. ~~An applicant who has failed the Iowa bar examination only once shall have no right of appeal, but the applicant may apply to take a subsequent regular examination.~~

31.11(2) ~~Two or more failed bar exams.~~Procedures for automatic review. The board shall apply the following procedures for those eligible for an automatic review:

a. The attorney members of the board and any temporary examiners the board may designate will review the applicant's written answers. The answers shall be submitted on an anonymous basis without oral argument or hearing. If it appears that an answer should receive a different score (whether higher or lower), that score will be used to determine the applicant's scaled score. The board shall maintain a record of any changes made to the scoring of the individual questions on review.

b. Following its review, the board shall recommend to the supreme court that the applicant be admitted to the practice of law in Iowa if the applicant's combined, scaled score after review is at least 266. An applicant whose combined, scaled score after review is 265 or below shall be deemed to have failed the examination.

~~a. An applicant who has failed two or more Iowa bar examinations may appeal from the board's determination as to the scoring of the written portion of the bar examination as follows:~~

~~(1) The applicant, and the applicant's attorney if a member of the Iowa bar, may examine the applicant's most recent examination paper in the office of professional regulation and obtain copies thereof at the applicant's expense.~~

~~(2) Only an applicant who scored 260 points or higher on the exam may appeal.~~

~~(3) An applicant may appeal the scoring of no more than four of the applicant's answers.~~

~~(4) The applicant may file an appeal no later than 30 days after the date the applicant's score is posted in the office of professional regulation. The applicant~~

~~shall file the original and one copy of the appeal with the assistant director. The appeal must comply with the following requirements:~~

- ~~1. The appeal shall specify which answers are being appealed and shall not contain any argument, analysis, or supporting authorities.~~
 - ~~2. The appeal shall include all dates on which the applicant previously took Iowa bar examinations.~~
 - ~~3. The appeal shall include the applicant's name, address, phone number, and e-mail address.~~
 - ~~4. The appeal shall be signed by the applicant and the applicant's attorney, if any.~~
 - ~~5. The applicant shall attach copies of those answers the applicant is appealing.~~
- ~~(5) The applicant shall pay an appeal fee of \$100.~~

~~b. When an appeal has been filed, the board shall apply the following procedures:~~

- ~~(1) The attorney members of the board will review each answer the applicant has appealed. The answers shall be submitted on an anonymous basis without oral argument or hearing. The applicant's other answers will not be considered. If at least three of those members agree that an answer should receive a different score (whether higher or lower), that score will be used to determine the applicant's scaled score.~~
- ~~(2) Following its review of those answers that the applicant has appealed, the board shall either affirm its previous decision or recommend to the supreme court that the applicant be admitted to the practice of law in Iowa. The original of the decision shall be filed with the supreme court clerk, and a copy shall be mailed by the clerk to the applicant at the address shown in the petition. The board's determination shall be subject to supreme court review in accordance with the provisions of rule 31.11(4).~~

31.11(3) *Supreme court review. Denial of permission to take bar exam; denial of recommendation for admission.* An unsuccessful applicant whose combined, scaled score on the bar examination is at least 260, but less than 266, may file a petition requesting review of the board's determination in the supreme court. The petition shall be filed with the clerk of the supreme court and served upon the board. The petition must be filed within 20 days of the date the applicant's score is posted in the office of professional regulation and must be accompanied by a \$150 fee. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. The petition for review shall identify all answers the applicant requests the supreme court to review and state the reasons for challenging the board's determination. The board shall transmit to the supreme court the complete record in the case. Unless the court orders otherwise, the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive.

~~When the board of law examiners determines that any person who registers or makes application should not be permitted to take a bar examination, or that an applicant who has passed a bar examination should not be recommended for admission to practice law in Iowa, the board shall notify the applicant in writing of its determination.~~

~~a. The notice shall provide that the applicant is entitled to a hearing to challenge the determination upon filing a written request for hearing with the assistant director within ten days after service of the notice.~~

~~b. The assistant director shall serve the notice on the applicant by mail to the address shown on the person's application.~~

~~c. If no request for hearing is filed, the board's determination shall be final and not subject to review.~~

~~d. If a request for hearing is filed, the chairperson of the board shall appoint a lawyer member of the board to act as hearing officer. The hearing officer shall promptly set a hearing, and the assistant director shall notify the applicant by mail at least ten days before the hearing date of the time and place of hearing.~~

~~e. Not less than ten days before the hearing date the board shall furnish the applicant with copies of all documents and summaries of all other information relied on by the board in making its determination.~~

~~f. The clerk of court in the county where the hearing is held shall have authority to issue any necessary subpoenas for the hearing.~~

~~g. At the hearing the applicant shall have the right to appear in person and by counsel. The board may be represented by the attorney general of the State of Iowa or a duly appointed assistant attorney general. The hearing shall be reported. The hearing officer shall take judicial notice of the information considered by the board in the case and shall consider such additional evidence and arguments as may be presented at the hearing. At the hearing, the board shall first present any additional evidence or information that it deems necessary to the proceeding. Thereafter the applicant shall present evidence. The attorney for the board may offer rebuttal evidence at the discretion of the hearing officer. In presiding at the hearing the hearing officer shall have the power and authority possessed by administrative hearing officers generally.~~

~~h. Within 30 days after completion of the hearing, the hearing officer shall provide the board with a hearing transcript, exhibits, and written summary of the evidence, without fact findings or legal conclusions. Based on this information, the board shall make and file with the assistant director its final determination. The assistant director shall, by mail, promptly notify the applicant of the board's final determination.~~

31.11(4). *Review by supreme court.* ~~Any applicant aggrieved by a final determination of the board made pursuant to rule 31.11(2)(b)(2) or rule 31.11(3)(h) may file a petition requesting review of the determination in the supreme court of Iowa within 20 days of the mailing of notice of final~~

determination. If no such petition is filed within the 20-day period, the board's determination shall not be subject to review. A petition for review shall state all claims of error and reasons for challenging the board's determination. The board shall transmit to the supreme court its files and complete record in the case. Unless the court orders otherwise the petition shall be deemed submitted for the court's review on the record previously made. After consideration of the record, the court shall enter its order sustaining or denying the petition. The order of the court shall be conclusive. No subsequent application for admission by a person denied under rule 31.11(3)(h) shall be considered by the board unless authorized by the court upon the person's motion accompanied by a prima facie showing of a substantial change of circumstances.

31.11(5) *Costs of appeal.* In the event an applicant or person who is registered takes an appeal under rule 31.11(2) or 31.11(3) and is unsuccessful, the costs of the appeal shall be taxed against the unsuccessful applicant and judgment therefor may be entered in the district court of that person's county of residence, if an Iowa resident, or in the district court for Polk County if a nonresident.

CHAPTER 32

IOWA RULES OF PROFESSIONAL CONDUCT

Rule 32:1.3: DILIGENCE

A lawyer shall act with reasonable diligence and promptness in representing a client.

Comment

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[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. See Iowa Ct. Rs. 35.17(6) ~~35.16(6)~~, 35.18 ~~35.17~~ (where reasonable necessity exists, the local chief judge shall appoint a lawyer to serve as trustee to inventory files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons of a deceased, suspended, or disabled lawyer).

Rule 32:8.5 DISCIPLINARY AUTHORITY; CHOICE OF LAW

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Comment

Disciplinary Authority

[1] It is longstanding law that the conduct of a lawyer admitted to practice in Iowa is subject to the disciplinary authority of Iowa. Extension of the disciplinary authority of Iowa to other lawyers who provide or offer to provide legal services in Iowa is for the protection of the citizens of Iowa. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this rule. See Iowa Ct. R. 35.19 ~~35.18~~. A lawyer who is subject to Iowa's disciplinary authority under rule 32:8.5(a) appoints the Clerk of the Supreme Court of Iowa to receive service of process with respect to Iowa disciplinary matters. The fact that the lawyer is subject to the disciplinary authority of Iowa may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

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CHAPTER 34

RULES OF PROCEDURE OF THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD

Rule 34.4 Procedure

34.4(1) Upon receiving a complaint, the assistant director for attorney discipline shall evaluate all information coming to his or her attention from the complaint or from any other sources alleging lawyer misconduct or incapacity. The assistant director shall have the authority to decline to open an investigation of a complaint if the information, if true, would not constitute misconduct or incapacity, or if the complaint is facially frivolous, stale, lacking in adequate factual detail, duplicative, outside the board's jurisdiction, or does not otherwise reasonably warrant investigation. The board may adopt policies to guide the assistant director in the exercise of this authority.

34.4(2) ~~T~~the board shall make a record indicating the date filed, the name and address of the complainant, the name and address of the respondent lawyer, and a brief statement of the charges made. This record ultimately shall show the final disposition of the matter when it is completed.

34.4(3) 34.4(2) The board shall keep all files in permanent form and confidential, unless otherwise provided or directed in writing by the chair of the board, or the chair's designee, for disciplinary purposes or by a specific rule of the supreme court. All such files shall be available for examination and reproduction, by the designated officer or agent of the Client Security Commission, pursuant to proceedings under chapter 39 of the Iowa Court Rules.

Any such files, except for the work product of staff counsel, investigators, or administrators of the board, shall be provided to the respondent within a reasonable time upon the respondent's request. For purposes of this rule, "work product" does not include a written statement signed or otherwise adopted or approved by the person making it or a contemporaneous and substantially verbatim transcript or recording of a person's oral statement.

34.4(4) A complaint declined pursuant to this rule shall not be deemed a complaint for any purpose. A complaint declined pursuant to this rule shall not be docketed under rule 34.4(2), nor shall it be reported or disclosed by the board or the respondent to any person or authority for any reason.

Rule 34.5 Board procedure. Upon receipt of any complaint, the board shall notify the complainant in writing that the complaint has been received and will be acted upon or that pursuant to rule 34.4(1) no action will be taken.

Rule 34.6 Notification of respondent - response.

34.6(1) The board shall forward to the respondent a copy of the complaint and copies of chapters 34 and 35 of the Iowa Court Rules. However, if the

complaint is declined pursuant to rule 34.4(1), the board shall not notify the respondent and no response shall be required.

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Rule 34.7 Failure to respond—notice—effect.

34.7(1) *Failure to respond—separate ethical violation.* If after 20 days no response has been received, the respondent shall be notified by restricted certified mail that unless a response is made within 10 days from receipt of notice, the board may file a complaint with the Grievance Commission of the Supreme Court of Iowa for failure to respond, and concerning all or any portion of the matter about which the original complaint was made. If service cannot be obtained by restricted certified mail, the board may serve the notice on the clerk of the supreme court who is appointed to receive service on behalf of lawyers subject to Iowa's disciplinary authority. Iowa R. of Prof'l Conduct 32:8.5 cmt. [1]. Service upon the clerk of the supreme court is deemed to be receipt of the notice by the respondent.

Rule 34.23. Forms.

Rule 34.23 – Form 1. Iowa Supreme Court Attorney Disciplinary Board Complaint Form

THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD

Complaint Form

(Complete a separate form for each lawyer you are complaining about)

1. **Your name:** _____ **Email Address:** _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: Home _____ ; Cell _____ ; Business _____

2. **Name of Lawyer** you are complaining about: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Telephone: _____

3. Did you hire the lawyer (yes or no)? _____ If yes, when was the lawyer hired ? _____

If no, what is your connection to the lawyer? _____

4. If your complaint is about a lawsuit or court case, answer the following:

_____ a. Name of court (examples: Iowa District Court for Polk County; United States District Court for Northern District of Iowa) _____

_____ b. Case title (examples: Smith vs. Jones; State vs. Doe) _____

_____ c. Case no. _____

5. Type or write neatly on one or more separate sheets of paper a detailed factual statement of what the lawyer did or did not do that you are complaining about. Return the sheet(s) with this form. **Write on only one side of the complaint form and the additional sheets of paper.** Please attach copies of documents that prove or help to explain your complaint, such as fee agreements, letters, checks, receipts, itemized billings, and court papers. **Do not send original documents, only copies, as we are not able to return your documents to you.**

In filing this complaint, the undersigned hereby waives confidentiality and attorney-client privilege, if any, between complainant and the above named attorney. This waiver allows the attorney to disclose your confidential information to the extent reasonably necessary to respond to the complaint.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the allegations of this complaint are true and correct.

Date _____ Signature _____

Send the completed form to: Iowa Supreme Court Attorney Disciplinary Board
Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319
Telephone: (515) 725-8017

THE IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD COMPLAINT FORM

I, _____, residing at _____

(Complainant) _____, in the City of _____, State
of _____, Zip Code _____, Telephone Number (_____) _____
_____ hereby complain that _____, whose address is _____

(Name of Attorney) _____, has violated the rules of ethics and conduct of the legal profession in that:

(Here explain the basis for the complaint.)

(Additional pages may be attached if necessary.)

~~IN FILING THIS COMPLAINT, THE UNDERSIGNED HEREBY WAIVES
THE ATTORNEY-CLIENT PRIVILEGE BETWEEN COMPLAINANT AND
THE ABOVE-NAMED ATTORNEY.~~

_____ I certify under penalty of perjury and pursuant to the laws of the state of Iowa that
_____ the preceding is true and correct.

_____ Date: _____ Signature _____

_____ This form to be filed with the Iowa Supreme Court Attorney Disciplinary
_____ Board:

_____ Iowa Supreme Court Attorney Disciplinary Board
_____ Judicial Branch Building
_____ 1111 East Court Avenue
_____ Des Moines, Iowa 50319
_____ Telephone: (515) 725-8017

CHAPTER 35

ATTORNEY DISCIPLINE, DISABILITY, AND REINSTATEMENT

Rule 35.8 Subpoenas. The commission shall have subpoena power on behalf of the board and the attorney against whom a complaint has been filed to compel the appearance of persons or the production of documents during discovery and the final hearing. Any attack on the validity of a subpoena shall be heard or determined by the chair of the commission, or the president or any member of a division to which a complaint has been referred. Any resulting order is not appealable prior to entry of the final ruling, report, or recommendation of the commission. Disobedience of the commission's subpoena shall be punishable as contempt in the district court for the county where the hearing is to be held. A contempt proceeding will not be a matter of public record. The clerk of the grievance commission must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it for service. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court.

~~The clerk of the district court of the county in which any disciplinary hearing is to be held shall issue subpoenas of all kinds upon request of the grievance commission, the complainant, or the attorney against whom a complaint has been filed. Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter. The grievance commission shall report to the supreme court the failure or refusal of any person to attend or testify in response to any subpoena or any ruling of said commission.~~

(new rule)

Rule 35.9 Stipulated Submissions. The parties may stipulate and agree to waive formal hearing and submit the complaint to the commission for its decision on the basis of a written stipulation approved by the parties and filed with the clerk of the commission. The commission may consider the complaint on the basis of the stipulation, or refuse to accept the stipulation and proceed with a formal hearing, or accept the stipulation but conduct a limited hearing to elicit such additional evidence as it may deem necessary to facilitate informed consideration of the complaint. A stipulation under this rule must be submitted not less than 15 days before the date set for hearing. A stipulation submitted pursuant to this rule may include a statement regarding the proposed discipline, including additional or alternative sanctions as provided in rule 35.10. The commission must consider the statement of proposed discipline, but is not limited by the statement and may recommend greater or lesser discipline, including additional or alternative sanctions. A stipulation submitted pursuant to this rule must include:

1. A statement of the relevant facts;
2. A separate statement of conclusions of law as to the stipulated violations;

3. A separate description of mitigating and aggravating circumstances;
4. A stipulation as to all exhibits;
5. A waiver of the formal hearing, the parties' agreement to submit the matter on the basis of the stipulation, and an agreement to closure of the record unless the commission directs further proceedings.

Rule 35.10 35.9 Decision. At the conclusion of a hearing upon any complaint against an attorney, the grievance commission may permit a reasonable time for the parties to file post-hearing briefs and arguments. The commission shall dismiss the complaint, issue a private admonition, or recommend to the supreme court that the attorney be reprimanded or the attorney's license to practice law be suspended or revoked. If the grievance commission recommends a reprimand or suspension or revocation of the attorney's license, it shall file with the supreme court its written findings of fact, conclusions of law, and recommendations. As part of its report, the commission may recommend additional or alternative sanctions such as restitution, costs, practice limitations, appointment of a trustee or receiver, passage of a bar examination or the Multistate Professional Responsibility Examination, attendance at continuing legal education courses, or other measures consistent with the purposes of attorney discipline.

A copy of the commission's report shall be filed with the Client Security Commission. The disposition or report of the grievance commission shall be made or filed with the supreme court within 60 30 days of the date set for the filing of the last responsive brief and argument. If the commission cannot reasonably make its determination or file its report within such time limit, the division president may file a request for an extension of time with the clerk of the commission prior to the expiration of the applicable 60-day period. The clerk shall serve a copy of the request on the chair of the commission and the parties. The chair of the commission shall file a written decision on the extension request with the clerk, who shall serve a copy on all parties. it shall report that fact and the reasons therefor to the parties and the clerk of the supreme court. If the division fails to file its decision or a request for an extension of time within 60 days of the date set for the filing of the last responsive brief and argument, the clerk shall promptly notify the director of the office of professional regulation of the failure. Any determination or report of the commission need only be concurred in by a majority of the commissioners sitting. Any commissioner has the right to file with the supreme court a dissent from the majority determination or report. Such matter shall then stand for final disposition in the supreme court. If the grievance commission dismisses the complaint or issues a private admonition, no report shall be made to the supreme court, except as provided in rule 35.25 35.24; however, the grievance commission shall, within ten days of its determination, serve a copy of its determination or report on the complainant and the attorney concerned as provided in chapter 36 of the Iowa Court Rules. If no appeal is applied for by the complainant within ten days after such

service, the grievance commission's determination shall be final. Any report of reprimand or recommendations for license suspension or revocation shall be a public document upon its filing with the clerk of the supreme court.

(old rules 35.10 through 35.15 are renumbered)

Rule 35.11 ~~35.10~~ Disposition by the supreme court.

35.11(1) ~~35.10(1)~~ Any report filed by the grievance commission with the supreme court shall be served upon the complainant and the attorney concerned as provided by chapter 36 of the Iowa Court Rules. Such report shall be entitled in the name of the complainant versus the accused attorney as the respondent. Within 14 days after a report is filed with the clerk of the supreme court, the clerk of the grievance commission shall transmit to the clerk of the supreme court the entire record made before the commission. If no appeal is taken or application for permission to appeal is filed within the ten day period provided in rule 35.12 ~~35.11~~, the supreme court shall set a date for submission of the commission report. The supreme court shall notify the parties that they may file written statements with the supreme court in support of or in opposition to the discipline the grievance commission recommended. Statements in support of or opposition to the recommended discipline shall be served and filed no later than seven days before the date set for submission. Upon submission, the supreme court shall proceed to review de novo the record made before the commission and determine the matter without oral argument or further notice to the parties. Upon such review de novo the supreme court may impose a lesser or greater sanction than the discipline recommended by the grievance commission.

35.11(2) ~~35.10(2)~~ The supreme court may revoke or suspend the license of an attorney admitted to practice in Iowa upon any of the following grounds: conviction of a felony, conviction of a misdemeanor involving moral turpitude, violation of any provision of the Iowa Rules of Professional Conduct, or any cause now or hereafter provided by statute or these rules.

Rule 35.12 ~~35.11~~ Appeal.

35.12(1) ~~35.11(1)~~ The respondent may appeal from the report or recommendation filed by the grievance commission pursuant to rule 35.10 ~~35.9~~ to the supreme court. The respondent's notice of appeal must be filed with the clerk of the grievance commission within ten days after service of the report or recommendation on the respondent. The respondent shall serve a copy of the notice of appeal on the complainant or its counsel pursuant to Iowa R. App. P. 6.701. Promptly after filing the notice of appeal with the clerk of the grievance commission, the respondent shall mail or deliver a copy of the notice to the clerk of the supreme court.

35.12(2) 35.11(2) The complainant may apply to the supreme court for permission to appeal from a determination, ruling, report, or recommendation of the grievance commission. The application shall be filed within ten days after service of the determination, ruling, report, or recommendation on the complainant. The supreme court may grant such appeal in a manner similar to the granting of interlocutory appeals in civil cases under the Iowa Rules of Appellate Procedure. The filing fee and the docket fee shall be waived upon the complainant's written request.

35.12(3) 35.11(3) An appeal of the grievance commission's dismissal of a complaint or of the grievance commission's decision to issue a private admonition shall remain confidential. In making such application, and in any subsequent briefs, the complainant shall refer to the respondent as "Attorney Doe No. (insert grievance commission number)," instead of using the respondent's name. All references to the respondent during oral arguments shall be to "Attorney Doe." In the event the supreme court reverses or modifies the report of the grievance commission, such court order of reversal or modification shall become a public record.

35.12(4) 35.11(4) After a notice of appeal is filed or permission to appeal is granted, the appeal shall proceed pursuant to the Iowa Rules of Appellate Procedure to the full extent those rules are not inconsistent with this rule. Appellant shall cause the appeal to be docketed within ten days after the filing of the notice of appeal or the order granting permission to appeal. The matter shall be docketed under the title given to the action before the grievance commission with the appellant identified as such pursuant to Iowa R. App. P. 6.12(1) unless otherwise required by rule **35.12(3) 35.11(3)**. The abbreviated time limits specified in Iowa R. App. P. 6.17 shall apply. Extensions of time shall not be granted except upon a verified showing of the most unusual and compelling circumstances. Review shall be de novo. If a respondent's appeal is dismissed for lack of prosecution pursuant to Iowa R. App. P. 6.19 or for any other reason, the supreme court shall proceed to review and decide the matter pursuant to rule **35.11 35.10** as if no appeal had been taken.

Rule 35.13 ~~35.12~~ Suspension.

35.13(1) 35.12(1) In the event the supreme court suspends an attorney's license to practice law, such suspension shall continue for the minimum time specified in such order and until the supreme court has approved the attorney's written application for reinstatement. In the order of suspension or by order at any time before reinstatement, the supreme court may require the suspended attorney to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

35.13(2) 35.12(2) An attorney whose license has been suspended for a period not exceeding 60 days shall not be required to file an application for reinstatement, and the court shall order reinstatement of the attorney's license on the day after the suspension period has expired, subject to the following

exceptions. The Iowa Supreme Court Attorney Disciplinary Board may file and serve within the suspension period an objection to the automatic reinstatement of the attorney. The filing of an objection shall stay the automatic reinstatement until ordered otherwise by the court. If the board files an objection, the court shall set the matter for hearing and the clerk shall enter written notice in conformance with rule 35.14 ~~35.13~~, except that the court may waive the requirement of a 60-day waiting period prior to the hearing date. Automatic reinstatement shall not be ordered until all costs assessed under rule 35.27 ~~35.26~~ have been paid.

35.13(3) ~~35.12(3)~~ Any attorney suspended shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills, and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

35.13(4) ~~35.12(4)~~ Nothing in this rule shall preclude an attorney, law firm, or professional association from employing a suspended attorney to perform such services only as may be ethically performed by laypersons employed in attorneys' offices, under all of the following conditions:

a. Notice of employment, together with a full job description, shall be provided to the board before employment commences.

b. Informational reports, verified by the employer and employee, shall be submitted quarterly to the board. Such reports shall contain a certification that no aspect of the employee's work has involved the unauthorized practice of law.

c. A suspended attorney shall not have direct or personal association with any client and shall not disburse or otherwise handle funds or property of a client.

Rule 35.14 ~~35.13~~ Procedure on application for reinstatement. Any person whose certificate to practice law in this state was suspended may apply for reinstatement subject to the following rules:

35.14(1) ~~35.13(1)~~ Application.

a. A proceeding for reinstatement to the practice of law in Iowa must be commenced by a written application to the supreme court filed with the clerk of the supreme court not more than 60 days prior to expiration of the suspension period.

b. The application shall state the date of the applicant's original admission, the date and duration of suspension, and that the applicant has complied in all respects with the orders and judgment of the supreme court relating to the suspension.

c. The application shall be verified by the oath of the applicant as to the truth of the statements made in the application.

d. The applicant shall also submit to the supreme court satisfactory proof that the applicant, at the time of the application, is of good moral character and in all respects worthy of the right to practice law. The application shall be accompanied by the recommendation of at least three reputable attorneys currently practicing law in the judicial district in which the applicant then lives and has lived at least one year prior to filing the application. If the applicant does not reside in the district in which the applicant lived at the time of the suspension, the applicant shall also file a recommendation from three reputable attorneys currently practicing law in the district where the applicant resided at the time of suspension. The required recommendations shall not be from judges or magistrates.

e. The applicant shall also submit satisfactory proof that the applicant, at the time of the application, has filed all reports, paid all fees, and completed all continuing legal education required by the provisions of chapters 39, 41 and 42 of the Iowa Court Rules.

35.14(2) 35.13(2) Procedure. Upon filing of such application and recommendations with the clerk of the supreme court, the clerk shall give written notice thereof to all of the following:

- a. The attorney general.
- b. The county attorney where the applicant resides.
- c. The county attorney where the applicant resided at the time of suspension.
- d. The chair of the Iowa Board of Law Examiners.
- e. The assistant director for attorney discipline of the office of professional regulation.
- f. Each judge of the district in which the applicant resided at the time of suspension.
- g. The president of a local bar association where the applicant resides.
- h. The president of a local bar association where the applicant resided when the certificate was suspended.
- i. The president of the Iowa State Bar Association.

35.14(3) 35.13(3) Written statements. Such persons, after receipt of the notice and before the date fixed for hearing, may submit to the clerk of the supreme court written statements of fact and comments regarding the current fitness of the applicant to practice law. Such notice shall contain the date of the suspension, the date of filing the application, and the date of hearing thereon fixed by the supreme court, which shall in no case be less than 60 days after the filing of such application for reinstatement.

35.14(4) 35.13(4) Notice of witnesses and exhibits. At least 14 days prior to the scheduled hearing date, the applicant and the Iowa Supreme Court Attorney Disciplinary Board shall provide notice to the court and the opposing party of the names and expected testimony of any witnesses they intend to produce and shall file and serve copies of any exhibits they intend to introduce

at the hearing. The opposing party may provide notice of any rebuttal witnesses or exhibits no later than 7 days prior to the scheduled hearing date. These deadlines shall be waived by the court only upon good cause shown.

35.14(5) 35.13(5) Hearing. The reinstatement hearing shall be held at the time and place designated by the court. The applicant shall bear the burden of demonstrating that the applicant is of good moral character, is fit to practice law, and has complied in all respects with the terms of the order or judgment of suspension. The hearing shall be public unless the court orders otherwise upon motion of a party. The hearing shall be informal and the strict rules of evidence shall not apply. The court may impose reasonable time limits on the length of the hearing.

35.14(6) 35.13(6) Decision. The court shall render its decision as soon as practicable after the hearing. The supreme court may require the person to meet reasonable conditions for reinstatement including, but not limited to, passing the Multistate Professional Responsibility Examination.

35.14(7) 35.13(7) Denial of reinstatement for failure to comply with a support order. An attorney who fails to comply with a support order may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The child support recovery unit (the unit) shall file any certificate of noncompliance which involves an attorney with the clerk of the supreme court. The procedure, including notice to the attorney, shall be governed by rule 35.20(1) ~~35.19(1)~~, except that the notice shall refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by rule 35.20(2) ~~35.19(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

d. Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the clerk of the supreme court and the director of the office of professional regulation are authorized to share information with the unit for the sole purpose of allowing the unit to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

35.14(8) 35.13(8) Denial of reinstatement for default on student loan obligation. An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an attorney with the clerk of the supreme court. The procedure, including notice to the attorney, shall be

governed by rule 35.21(1) ~~35.20(1)~~, except that the notice shall refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by rule 35.21(2) ~~35.20(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

35.14(9) 35.13(9) Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. An attorney who defaults on an obligation owed to or collected by the centralized collection unit of the department of revenue (the unit) may be denied reinstatement of the attorney's license to practice law in Iowa.

a. Procedure. The unit shall file any certificate of noncompliance which involves an attorney with the clerk of the supreme court. The procedure, including notice to the attorney, shall be governed by rule 35.22(1) ~~35.21(1)~~, except that the notice shall refer to a refusal to reinstate an attorney's license to practice law instead of a suspension of the attorney's license.

b. District court hearing. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. All matters pertaining to the hearing shall be governed by rule 35.22(2) ~~35.21(2)~~.

c. Noncompliance certificate withdrawn. If a withdrawal of a certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible for reinstatement.

Rule 35.15 ~~35.14~~ Conviction of a crime.

35.15(1) 35.14(1) Upon receipt by the supreme court of satisfactory evidence that an attorney had pled guilty or nolo contendere to, or has been convicted of, a crime which would be grounds for license suspension or revocation, such attorney may be temporarily suspended from the practice of law by the supreme court regardless of the pendency of an appeal. Not less than 20 days prior to the effective date of such suspension, the attorney concerned shall be notified, in writing directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and at a designated place to show cause why such

suspension should not take place. Any hearing so held shall be informal and the strict rules of evidence shall not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time.

35.15(2) 35.14(2) Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

35.15(3) 35.14(3) For good cause shown, the supreme court may set aside an order temporarily suspending an attorney from the practice of law as provided above upon application by such attorney and a hearing in accordance with rule 35.14 ~~35.13~~, but such reinstatement shall neither terminate a pending disciplinary proceeding nor bar later proceedings against the attorney.

35.15(4) 35.14(4) An attorney temporarily suspended under the provisions of this rule shall be promptly reinstated upon the filing of sufficient evidence disclosing the underlying conviction of a crime has been finally reversed or set aside, but such reinstatement shall neither terminate a pending disciplinary proceeding nor bar later proceedings against the attorney.

35.15(5) 35.14(5) The clerk of any court in this state in which an attorney has pled guilty or nolo contendere to, or been convicted of, a crime as set forth above shall, within ten days, transmit a certified record of the proceedings to the clerk of the supreme court.

Rule 35.16 35.15 Suspension or Disbarment on consent.

35.16(1) 35.15(1) An attorney subject to investigation or a pending proceeding involving allegations of misconduct subject to disciplinary action may acquiesce to suspension or disbarment, but only by delivering to the grievance commission an affidavit stating the attorney consents to suspension of not more than a specific duration or disbarment and indicating the following:

a. The consent is freely and voluntarily given absent any coercion or duress, with full recognition of all implications attendant upon such consent.

b. The attorney is aware of a pending investigation or proceeding involving allegations that there exist grounds for discipline, the nature of which shall be specifically set forth.

c. The attorney acknowledges the material facts so alleged are true.

d. In the event proceedings were instituted upon the matters under investigation, or if existent proceedings were pursued, the attorney could not successfully defend against same.

e. The facts admitted in the affidavit would probably result in the suspension or revocation of the attorney's license to practice law.

f. Any matters in mitigation or aggravation.

g. Consent to any alternative or additional sanctions as provided in rule 35.10.

35.16(2) 35.15(2) The Iowa Supreme Court Attorney Disciplinary Board shall file a response to the affidavit, indicating whether it believes the misconduct admitted in the affidavit would probably result in suspension or revocation of the attorney's license to practice law and citing any legal authorities supporting its conclusion.

35.16(3) 35.15(3) Upon receipt of such affidavit and response, the grievance commission shall cause the same to be filed with the clerk of the supreme court. The supreme court shall enter an order suspending the attorney's license to practice law for a period no greater than the stipulated duration, or disbarring the attorney on consent, unless it determines the misconduct admitted in the affidavit is insufficient to support the discipline to which the attorney has consented. a revocation of the attorney's license. The court may also order any of the alternative or additional sanctions to which the respondent has consented. If the court determines the affidavit ~~is insufficient~~ does not set forth facts that support imposition of the discipline to which the attorney has consented, it may either enter an order allowing the parties to supplement the affidavit or an order declining to accept the affidavit. An order declining to accept the affidavit shall not bar further disciplinary proceedings against the attorney, nor shall it preclude the court from imposing any sanction warranted by the attorney's conduct upon review of a grievance commission determination.

35.16(4) 35.15(4) Any order suspending or disbarring an attorney on consent shall be a matter of public record. If an order of suspension or disbarment is entered, the affidavit and response shall be publicly disclosed. ~~However, the affidavit and response required above shall not be publicly disclosed or made available for use in any other proceeding except upon order of the supreme court.~~

(old rules 35.16 through 35.27 are renumbered)

Rule 35.17 35.16 Disability suspension.

35.17(1) 35.16(1) In the event an attorney shall at any time in any jurisdiction be duly adjudicated a mentally incapacitated person, or an alcoholic, or a drug addict, or shall be committed to an institution or hospital for treatment thereof, the clerk of any court in Iowa in which any such adjudication or commitment is entered shall, within ten days, certify same to the clerk of the supreme court.

35.17(2) 35.16(2) Upon the filing of any such certificate or a like certificate from another jurisdiction or upon determination by the supreme court pursuant to a sworn application on behalf of a local bar association or the Iowa Supreme Court Attorney Disciplinary Board that an attorney is not discharging professional responsibilities due to disability, incapacity, abandonment of

practice, or disappearance, the supreme court may enter an order suspending the attorney's license to practice law in this state until further order of the court. Not less than 20 days prior to the effective date of such suspension, the attorney or the attorney's guardian and the director of the institution or hospital to which the attorney has been committed, if any, shall be notified, in writing directed by restricted certified mail to the last address as shown by the records accessible to the supreme court, that the attorney has a right to appear before one or more justices of the supreme court at a specified time and place and show cause why such suspension should not take place. Upon a showing of exigent circumstances, emergency or other compelling cause, the supreme court may reduce or waive the 20-day period and the effective date of action above referred to. Any hearing shall be informal and the strict rules of evidence shall not apply. The decision rendered may simply state the conclusion and decision of the participating justice or justices and may be orally delivered to the attorney at the close of the hearing or sent to the attorney in written form at a later time. A copy of such suspension order shall be given to the suspended attorney, or to the attorney's guardian and the director of the institution or hospital to which such suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

35.17(3) 35.16(3) Upon the voluntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.9112 or upon the involuntary retirement of an Iowa judicial officer for disability under Iowa Code section 602.2106(3)(a), the supreme court may enter an order suspending the retired judicial officer's license to practice law in this state in the event the underlying disability prevents the discharge of professional responsibilities of a lawyer. The suspension shall be effective until further order of the court. A copy of such suspension order shall be given to the suspended attorney, or to the attorney's guardian and the director of the institution or hospital to which such suspended attorney has been committed, if any, by restricted mail or personal service as the supreme court may direct.

35.17(4) 35.16(4) Any attorney suspended pursuant to this rule shall refrain, during such suspension, from all facets of the ordinary law practice including, but not limited to, the examination of abstracts; consummation of real estate transactions; preparation of legal briefs, deeds, buy and sell agreements, contracts, wills and tax returns; and acting as a fiduciary. Such suspended attorney may, however, act as a fiduciary for the estate, including a conservatorship or guardianship, of any person related to the suspended attorney within the second degree of affinity or consanguinity.

35.17(5) 35.16(5) No attorney suspended due to disability under this rule may engage in the practice of law in this state until reinstated by order of the supreme court.

35.17(6) 35.16(6) Upon being notified of the suspension of the attorney, the chief judge in the judicial district in which the attorney practiced shall appoint a lawyer or lawyers to serve as trustee to inventory the files, sequester client funds, and take any other appropriate action to protect the interests of the

clients and other affected persons. Such appointment shall be subject to confirmation by the supreme court. The appointed lawyer shall serve as a special member of the Iowa Supreme Court Attorney Disciplinary Board and as a commissioner of the supreme court for the purposes of the appointment. While acting as a trustee, the trustee shall not serve as a lawyer for the clients of the disabled lawyer and other affected persons. Neither shall the trustee examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee shall, as to such matters, protect the privacy interests of the disabled lawyer's clients by prompt recusal or refusal of employment. The trustee may seek reasonable fees and reimbursement of costs of the trust from the suspended attorney. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, shall determine the merits of the claim and the amount of any payment from the fund. When the suspended attorney is reinstated to practice law in this state, or all pending representation of clients has been completed, or the purposes of the trust have been accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

35.17(7) ~~35.16(7)~~ Any attorney so suspended shall be entitled to apply for reinstatement to active status once each year or at such shorter intervals as the supreme court may provide. An attorney suspended due to disability may be reinstated by the supreme court upon a showing, by clear and convincing evidence, that the attorney's disability has been removed and the attorney is fully qualified to resume the practice of law. Upon the attorney's filing of an application for reinstatement, the supreme court may take or direct any action deemed necessary or proper to determine whether such suspended attorney's disability has been removed, including an examination of the applicant by such qualified medical experts as the supreme court shall designate. In its discretion the supreme court may direct that the expenses of such an examination be paid by the attorney.

35.17(8) ~~35.16(8)~~ The filing of an application for reinstatement to active status by an attorney suspended due to disability shall constitute a waiver of any doctor-patient privilege with regard to any treatment of the attorney during the period of the disability. The attorney shall also set forth in the application for reinstatement the name of every psychiatrist, psychologist, physician and hospital or any other institution by whom or in which the petitioning attorney has been examined or treated since the disability suspension and shall also furnish to the supreme court written consent that any such psychiatrist, psychologist, physician and hospital or other institution may divulge any information and records requested by the supreme court or any court-appointed medical experts.

35.17(9) ~~35.16(9)~~ Where an attorney has been suspended due to disability and thereafter the attorney is judicially held to be competent or cured, the supreme court may dispense with further evidence regarding removal of the

disability and may order reinstatement to active status upon such terms as are deemed reasonable.

Rule 35.18 35.17 Death or suspension of practicing attorney. Upon a sworn application on behalf of a local bar association or the Iowa Supreme Court Attorney Disciplinary Board showing that a practicing attorney has died or been suspended or disbarred from the practice of law and a reasonable necessity exists, the chief judge in the judicial district in which the attorney practiced shall appoint a lawyer or lawyers to serve as trustee to inventory the files, sequester client funds, and take any other appropriate action to protect the interests of the clients and other affected persons. Such appointment shall be subject to confirmation by the supreme court. The appointed lawyer shall serve as a special member of the Iowa Supreme Court Attorney Disciplinary Board as a commissioner of the supreme court for the purposes of the appointment. While acting as a trustee, the trustee shall not serve as a lawyer for the clients of the disabled lawyer and other affected persons. Neither shall the trustee examine any papers or acquire any information concerning real or potential conflicts with the trustee's clients. Should any such information be acquired inadvertently, the trustee shall, as to such matters, protect the privacy interests of the disabled lawyer's clients by prompt recusal or refusal of employment. The trustee may seek reasonable fees and reimbursement of costs of the trust from the deceased attorney's estate or the attorney whose license to practice law has been suspended or revoked. If reasonable efforts to collect such fees and costs are unsuccessful, the trustee may submit a claim for payment from the Clients' Security Trust Fund of the Bar of Iowa. The Client Security Commission, in the exercise of its sole discretion, shall determine the merits of the claim and the amount of any payment from the fund. When all pending representation of clients has been completed or the purposes of the trust have been accomplished, the trustee may apply to the appointing chief judge for an order terminating the trust.

Rule 35.19 35.18 Reciprocal discipline.

35.19(1) 35.18(1) Any attorney admitted to practice in this state, upon being subjected to professional disciplinary action in another jurisdiction or in any federal court, shall promptly advise the Iowa Supreme Court Attorney Disciplinary Board, in writing, of such action. Upon being informed that an attorney admitted to practice in this state has been subjected to discipline in another jurisdiction or any federal court, the board shall obtain a certified copy of such disciplinary order and file it in the office of the clerk of the supreme court.

35.19(2) 35.18(2) Upon receipt of a certified copy of an order disclosing an attorney admitted to practice in this state has been disciplined in another jurisdiction or any federal court, the supreme court shall promptly give notice thereof by restricted certified mail or personal service directed to such attorney containing: a copy of the disciplinary order from the other jurisdiction or

federal court, and an order directing that such disciplined attorney file in the supreme court, within 30 days after receipt of the notice, any objection that imposition of identical discipline in this state would be too severe or otherwise unwarranted, giving specific reasons. A like notice shall be sent, by ordinary mail, to the board, which shall have the right to object on the ground that the imposition of identical discipline in this state would be too lenient or otherwise unwarranted. If either party so objects, the matter shall be set for hearing before three or more justices of the supreme court and the parties notified by restricted certified mail at least ten days prior to the date set. At such hearing a certified copy of the testimony, transcripts, exhibits, affidavits and other matters introduced into evidence in such jurisdiction or federal court shall be admitted into evidence as well as any findings of fact, conclusions of law, decision and orders. Any such findings of fact shall be conclusive and not subject to readjudication. Thereafter, the supreme court shall enter such findings, conclusions and orders that it deems appropriate.

35.19(3) 35.18(3) If neither party objects within 30 days from service of the notice, the supreme court may impose the identical discipline, unless the court finds that on the face of the record upon which the discipline is predicated it clearly appears that any of the following exist:

- a. The disciplinary procedure was so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.
- b. There was such infirmity of proof establishing misconduct as to give rise to the clear conviction that the supreme court could not, conscientiously, accept as final the conclusion on that subject.
- c. The misconduct established warrants substantially different discipline in this state.

35.19(4) 35.18(4) If the supreme court determines that any such factors exist, it may enter an appropriate order. Rule 35.14 ~~35.13~~ shall apply to any subsequent reinstatement or reduction or stay of discipline.

Rule 35.20 35.19 Suspension of attorney's license for failure to comply with a support order. An attorney who fails to comply with a support order may be subject to a suspension of the attorney's license to practice law in Iowa.

35.20(1) 35.19(1) Procedure. The child support recovery unit (the unit) shall file any certificate of noncompliance with a support order which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

- a. The attorney's license to practice law will be suspended unless the attorney causes the unit to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county in which the underlying support order is filed.

c. The application for hearing must be filed with the district court clerk within 30 days of the date of issuance of the notice, and copies of the application must be provided to the unit and the office of professional regulation of the supreme court by regular mail.

d. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

e. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

35.20(2) ~~35.19(2)~~ District court hearing.

a. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the obligor, the unit, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the unit's written decision and certificate of noncompliance from the unit and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to determining if there has been a mistake of fact relating to the attorney's support delinquency. The court shall not consider visitation or custody issues, and shall not modify the support order.

e. If the district court concludes the unit erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of certificate of noncompliance, the court shall order the unit to file a withdrawal of certificate of noncompliance with the office of professional regulation of the supreme court.

35.20(3) ~~35.19(3)~~ Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

35.20(4) ~~35.19(4)~~ Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation of the supreme court is authorized to share information with the unit for the sole purpose of allowing the unit to identify licensees subject to enforcement under Iowa Code chapter 252J or 598.

Rule ~~35.21~~ ~~35.20~~ Suspension of attorney's license for failure to comply with an obligation owed to or collected by the College Student Aid Commission. An attorney who defaults on an obligation owed to or collected by the College Student Aid Commission may be subject to a suspension of the attorney's license to practice law in Iowa.

35.21(1) ~~35.20(1)~~ Procedure. The College Student Aid Commission (the commission) shall file any certificate of noncompliance which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the commission to file a withdrawal of certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the commission to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the attorney's county of residence.

d. The application for hearing must be filed with the district court clerk within 30 days of the date of issuance of the notice, and copies of the application must be provided to the commission and the office of professional regulation of the supreme court by regular mail.

e. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

35.21(2) ~~35.20(2)~~ District court hearing.

a. Upon receipt of an application for hearing by the attorney, the clerk of district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the attorney, the commission, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the commission's written decision and certificate of noncompliance from the commission and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to determining if there has been a mistake of fact relating to the attorney's delinquency.

e. If the district court concludes the commission erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court shall order the commission to file a withdrawal of the certificate of noncompliance with the office of professional regulation of the supreme court.

35.21(3) 35.20(3) Noncompliance certificate withdrawn. If a withdrawal of certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

Rule 35.22 35.21 Suspension of attorney's license for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.

35.22(1) 35.21(1) Procedure. The centralized collection unit of the department of revenue (the unit) shall file any certificate of noncompliance which involves an attorney with the supreme court by filing the certificate with the office of professional regulation of the supreme court at 1111 E. Court Ave., Des Moines, Iowa 50319. Upon receipt of the certificate of noncompliance, the director of the office of professional regulation of the supreme court shall issue a notice to the attorney. The following rules shall apply and shall be recited in the notice:

a. The attorney's license to practice law will be suspended unless the attorney causes the unit to file a withdrawal of the certificate of noncompliance within 30 days of the date of issuance of the notice.

b. The attorney must contact the unit to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance.

c. The attorney may challenge the supreme court's action under this rule only by filing an application for hearing with the district court in the county where the majority of the liability was incurred.

d. The application for hearing must be filed with the clerk of the district court within 30 days of the date of issuance of the notice, and copies of the application must be provided to the unit and the office of professional regulation of the supreme court by regular mail.

e. The filing of the application shall automatically stay the supreme court's action on the certificate of noncompliance.

f. The provisions of this rule shall prevail over those of any other statute or rule to the extent they may conflict.

35.22(2) 35.21(2) District court hearing.

a. Upon receipt of an application for hearing by the attorney, the clerk of the district court shall schedule a hearing to be held within 30 days of the date of filing of the application. The clerk shall mail copies of the order setting hearing to the attorney, the unit, and the office of professional regulation of the supreme court.

b. Prior to the hearing, the district court shall receive a certified copy of the unit's written decision and certificate of noncompliance from the unit and a certified copy of the notice from the office of professional regulation of the supreme court.

c. If the attorney fails to appear at the scheduled hearing, the automatic stay of the supreme court's action on the certificate of noncompliance shall be lifted.

d. The district court's scope of review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

e. If the district court concludes the unit erred in issuing the certificate of noncompliance or in refusing to issue a withdrawal of the certificate of noncompliance, the court shall order the unit to file a withdrawal of the certificate of noncompliance with the office of professional regulation of the supreme court.

35.22(3) 35.21(3) Noncompliance certificate withdrawn. If a withdrawal of the certificate of noncompliance is filed, the supreme court shall curtail any proceedings pursuant to the certificate of noncompliance or, if necessary, shall immediately reinstate the attorney's license to practice law if the attorney is otherwise eligible under rules of the court.

35.22(4) 35.21(4) Sharing information. Notwithstanding the provisions of any other rule or statute concerning the confidentiality of records, the director of the office of professional regulation of the supreme court is authorized to share information with the unit for the sole purpose of allowing the unit to identify licensees subject to enforcement under Iowa Code chapter 272D.

Rule 35.23 35.22 Notification of clients and counsel.

35.23(1) 35.22(1) In every case in which a respondent is ordered to be disbarred or suspended, the respondent shall do all of the following:

a. Within 15 days notify in writing the respondent's clients in all pending matters to seek legal advice elsewhere, calling attention to any urgency in seeking the substitution of another lawyer.

b. Within 15 days deliver to all clients being represented in pending matters any papers or other property to which they are entitled or notify them and any co-counsel of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property.

c. Within 30 days refund any part of any fees paid in advance that have not been earned.

d. Within 15 days notify opposing counsel in pending litigation or, in the absence of such counsel the adverse parties, of the respondent's disbarment or suspension and consequent disqualification to act as a lawyer after the effective date of such discipline or transfer to disability inactive status.

e. Within 15 days file with the court, agency, or tribunal before which the litigation is pending a copy of the notice to opposing counsel or adverse parties.

f. Keep and maintain records of the steps taken to accomplish the foregoing.

g. Within 30 days file with the Iowa Supreme Court Attorney Disciplinary Board copies of the notices sent pursuant to the requirements of this rule and proof of complete performance of the requirements, and this shall be a condition for application for readmission to practice.

~~35.23(2)~~ ~~35.22(2)~~ The times set forth in ~~35.23(1)(c)~~ ~~35.22(1)(e)~~ and ~~35.23(1)(g)~~ ~~35.22(1)(g)~~ of this rule shall be reduced to 15 days for respondents who are exempted from filing an application for reinstatement under rule ~~35.13~~ ~~35.12~~.

Rule ~~35.24~~ ~~35.23~~ Immunity.

~~35.24(1)~~ ~~35.23(1)~~ Complaints submitted to the grievance commission or the disciplinary board, or testimony with respect thereto, shall be privileged and no lawsuit predicated thereon may be instituted.

~~35.24(2)~~ ~~35.23(2)~~ Claims against members of the grievance commission, the disciplinary board, and the director, assistant directors, and the staff of the office of professional regulation are subject to the Iowa Tort Claims Act set forth in Iowa Code chapter 669.

~~35.24(3)~~ ~~35.23(3)~~ A true copy of any complaint against a member of the grievance commission or the disciplinary board involving alleged violations of an attorney's oath of office or of the Iowa Rules of Professional Conduct and laws of the United States or state of Iowa shall be promptly forwarded to the chief justice of the supreme court.

Rule ~~35.25~~ ~~35.24~~ Reports. The chair of the grievance commission and the chair of the disciplinary board shall, on February 1 of each year, submit to the supreme court a consolidated report of the number of complaints received and processed during the prior calendar year, a synopsis of each such complaint, and the disposition thereof. The name of the attorney charged and the name of the complainant shall be omitted, but a synopsis of the charges made and a report of disposition shall be included.

Rule ~~35.26~~ ~~35.25~~ Effective dates. These rules shall have prospective and retrospective application to all alleged violations, complaints, hearings, and dispositions thereof on which a hearing has not actually been commenced before the grievance commission prior to the effective date of these rules.

Rule ~~35.27~~ ~~35.26~~ Costs.

~~35.27(1)~~ ~~35.26(1)~~ In the event that an order of revocation, suspension, or public reprimand results from formal charges of misconduct, the supreme court shall assess against the respondent attorney the costs of the proceeding. For the purposes of this rule, costs shall include those expenses normally taxed as costs in state civil actions pursuant to the provisions of Iowa Code chapter 625.

35.27(2) 35.26(2) Within 30 days of the filing of the commission report, the commission shall serve the complainant and the respondent with a bill of costs and file the bill with the clerk of the supreme court. An appeal does not obviate this requirement. The complainant and the respondent shall have ten days from the date of service to file written objections with the supreme court and the clerk of the grievance commission. Any objections filed shall be considered by the president of the grievance commission division or the president's designee. The president or the designee shall rule on the objections within ten days. The ruling and objections shall be considered by the supreme court upon disposition of the matter under rule 35.11 35.10 or 35.12 35.11. Additional costs associated with an appeal shall be taxed by the clerk as in other civil actions.

35.27(3) 35.26(3) In its final decision, the supreme court shall order the respondent to pay restitution to the complainant for such costs as the supreme court may approve. A suspended or disbarred attorney may not file an application for reinstatement or readmission until the amount of such restitution for costs assessed under this rule has been fully paid, or waived by the supreme court.

Rule 35.28 35.27 Rules. The grievance commission and the disciplinary board shall each adopt reasonable rules prescribing the procedure to be followed in all disciplinary proceedings before each such body, which rules shall be subject to approval by the supreme court.

CHAPTER 36

RULES OF THE GRIEVANCE COMMISSION

Rule 36.10 Subpoenas — Oaths. ~~The chair of the commission, or the president or any member of a division to which a complaint has been referred, or any attorney against whom a complaint has been filed, may request the clerk of the district court of the county in which any disciplinary hearing is held to issue subpoenas of every kind in all matters pending before the commission or division thereof, and the clerk shall issue same. Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter. Any member of the grievance commission is hereby empowered to administer oaths or affirmations to all witnesses and shall cause such testimony to be officially reported by a court reporter.~~

CHAPTER 39

CLIENT SECURITY COMMISSION

Rule 39.9 Claims

39.9(1) The commission shall consider for payment all claims resulting from the dishonest conduct of a member of the bar of this state acting either as an attorney or fiduciary, provided that all of the following are established:

a. Said conduct was engaged in while the attorney was a practicing member of the bar of this state and the claim arises out of the practice of law in this state. For purposes of this rule, a practicing member of the bar of this state is:

(1) a member of the bar of Iowa whose license is active and in good standing at the time of the dishonest conduct giving rise to the claim, or

(2) a member of the bar of Iowa whose license has been suspended and whom the client reasonably believes to be licensed, active, and in good standing at the time of the dishonest conduct giving rise to the claim. If the lawyer has been suspended more than six months prior to the time of the dishonest conduct giving rise to the claim, it shall be presumed that the client was unreasonable in believing that the lawyer was licensed, active, and in good standing at the time of the dishonest conduct.

The commission shall not consider any claim resulting from conduct engaged in after an attorney's license to practice in Iowa has been revoked.

. . .

Rule 39.15 Denial of reinstatement for failure to comply with certain obligations.

39.15(1) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule 35.22 ~~35.21~~.

39.15(2) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for reinstatement under rule 39.14 for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule 35.21 ~~35.20~~.

39.15(3) *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny a lawyer's application for reinstatement under

rule 39.14 for failure to comply with a support order. The procedure shall be governed by rule 35.20 ~~35.19~~.

CHAPTER 41

CONTINUING LEGAL EDUCATION FOR LAWYERS

Rule 41.3 Continuing legal education requirement

. . .

41.3(2) The 15 hours required by rule 41.3(1) shall include a minimum of 3 ~~2~~ hours, every two calendar years, devoted exclusively to the area of legal ethics. Excess hours of education devoted to legal ethics can be carried over for purposes of the annual 15-hour requirement under rule 41.3(1) but cannot be carried over beyond the two-year period for special legal ethics requirement under this rule.

. . .

Rule 41.11 Denial of reinstatement for failure to comply with certain obligations.

41.11(1) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the centralized collection unit of the department of revenue. The procedure shall be governed by rule 35.22 ~~35.21~~.

41.11(2) *Denial of reinstatement for failure to comply with an obligation owed to or collected by the College Student Aid Commission.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with an obligation owed to or collected by the College Student Aid Commission. The procedure shall be governed by rule 35.21 ~~35.20~~.

41.11(3) *Denial of reinstatement for failure to comply with a support order.* The supreme court may deny a lawyer's application for reinstatement under rule 41.7 or 41.10 for failure to comply with a support order. The procedure shall be governed by rule 35.20 ~~35.19~~.

CHAPTER 42

REGULATIONS OF THE COMMISSION ON CONTINUING LEGAL EDUCATION

Rule 42.1 Definitions

For the purpose of these regulations, the following definitions shall apply:

. . . .

“Legal ethics” shall mean a separate, designated, and dedicated session of instruction:

- referring to and based on the disciplinary rules or ethical considerations of the ethics or professional responsibility code for lawyers in the jurisdiction where the instruction is presented; or
- designed to help attorneys detect, prevent, or respond to substance abuse or mental illness that impairs professional competence. The instruction must focus on issues in the legal profession and in the practice of law, and not issues of substance abuse or mental health in general.

CHAPTER 45

CLIENT TRUST ACCOUNT RULES

Rule 45.1	Requirement for client trust account
Rule 45.2	Action required upon receiving funds, <u>accounting, and records</u>
Rule 45.3	Type of accounts and institutions where trust accounts must be established
Rule 45.4	Pooled interest-bearing trust account
Rule 45.5	Definition of "allowable monthly service charges"
Rule 45.6	Lawyer certification
Rule 45.7	Advance fee and expense payments
Rule 45.8	General retainer
Rule 45.9	Special retainer
Rule 45.10	Flat fee

Rule 45.2 Action required upon receiving funds, accounting and records.

45.2(1) *Authority to endorse or sign client's name.* Upon receipt of funds or other property in which a client or third person has an interest, a lawyer shall not endorse or sign the client's name on any check, draft, security, or evidence of encumbrance or transfer of ownership of realty or personalty, or any other document without the client's prior express authority. A lawyer signing an instrument in a representative capacity shall so indicate by initials or signature.

45.2(2) ~~*Maintaining records, providing Aaccounting, and returning funds or property.*~~ A lawyer shall maintain complete records of all funds, securities, and other properties of a client coming into the lawyer's possession and regularly account to the client for them. Except as stated in this chapter or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and shall promptly render a full accounting regarding such property. ~~Books and records relating to funds or property of clients shall be preserved for at least six years after completion of the employment to which they relate.~~

45.2(3) *Maintaining records.*

a. A lawyer who practices in this jurisdiction shall maintain current financial records as provided in these rules and required by Iowa R. of Prof'l Conduct 32:1.15, and shall retain the following records for a period of six years after termination of the representation:

(1) receipt and disbursement journals containing a record of deposits

to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee and purpose of each disbursement;

(2) ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons or entities to whom such funds were disbursed;

(3) copies of retainer and compensation agreements with clients as required by Iowa R. of Prof'l Conduct 32:1.5;

(4) copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf;

(5) copies of bills for legal fees and expenses rendered to clients;

(6) copies of records showing disbursements on behalf of clients;

(7) the physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, pre-numbered canceled checks, and substitute checks provided by a financial institution;

(8) records of all electronic transfers from client trust accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient, and the trust account name or number from which money is withdrawn;

(9) copies of monthly trial balances and monthly reconciliations of the client trust accounts maintained by the lawyer, and

(10) copies of those portions of client files that are reasonably related to client trust account transactions.

b. With respect to trust accounts required by Iowa R. of Prof'l Conduct 32:1.15:

(1) only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a client trust account;

(2) receipts shall be deposited intact and records of deposit should be sufficiently detailed to identify each item; and

(3) withdrawals shall be made only by check payable to a named payee and not to cash, or by authorized bank transfer.

c. Records required by this rule may be maintained by electronic, photographic, computer, or other media provided that they otherwise comply with these rules and that printed copies can be produced. These records shall be accessible to the lawyer.

d. Upon dissolution of a law firm or of any legal professional corporation, the partners shall make reasonable arrangements for the maintenance of the records specified in this rule.

e. Upon the sale of a law practice, the seller shall make appropriate arrangements for the maintenance of the records specified in this rule.